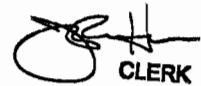


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**

AUG 07 2008

  
CLERK

FRANK ATUAHENE, Ph.D.,

Plaintiff,

vs.

SOUTH DAKOTA STATE  
UNIVERSITY,

Defendant.

Civ. 07-4099-KES

ORDER DENYING  
MOTION TO APPOINT  
COUNSEL

Plaintiff, Frank Atuahene, sent a letter to the court, which the court interprets as a motion to appoint counsel. Docket 30. Plaintiff seeks the court's help in finding an attorney because "I have a strong case but without legal expertise, this case may fall apart." Id. Plaintiff also states that he has had difficulty finding an attorney who does not have some relationship with Defendant South Dakota State University. Id. For the reasons stated below, this motion is denied.

Plaintiff cites no statutory authority for his request, and the court is aware of only one statute which would permit the court to assist Plaintiff in finding an attorney. 28 U.S.C. § 1915(e)(1) permits the court to appoint an attorney to represent any person who is "unable to afford counsel." Plaintiff, however, has not petitioned this court for in forma pauperis status under 28 U.S.C. § 1915 or demonstrated that he is "unable to afford counsel." In fact, Plaintiff has paid all necessary fees up to this point and in his motion to the court, Plaintiff says nothing about an inability to pay for an attorney to

represent him in this matter. Both facts indicate that Plaintiff may not qualify for such a designation.

Even if Plaintiff were to establish that he is unable to afford counsel, the court declines to appoint counsel to represent Plaintiff at this time. “A pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case.” Stevens v. Redwing, 146 F.3d 538, 546 (8th Cir. 1998). “In civil rights matters the court *may*, pursuant to 28 U.S.C. § 1915, ‘request’ an attorney to represent a party if, within the court’s discretion, the circumstances are such that would properly justify such a request.” Mosby v. Mabry, 697 F.2d 213, 214 (8th Cir. 1982) (emphasis in original). In deciding whether to appoint counsel under § 1915(e)(1), the court is to consider such factors as “the complexity of the case, the ability of the indigent litigant to investigate the facts, the existence of conflicting testimony, and the ability of the indigent to present his claim.” Stevens, 146 F.3d at 546; see also Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986).

It appears to the court that Plaintiff is able, at the current stage of the litigation, to adequately represent himself. Plaintiff has shown the court that he has been able to investigate and articulate his claims up to this point. For example, he has filed numerous documents, including a motion for default judgment and an opposition to a motion to quash. Docket 11, 14. Plaintiff has also demonstrated that he is familiar with judicial procedures. Furthermore, Plaintiff has not shown that the appointment of counsel is necessary because of the complexity of this case or the existence of conflicting testimony. See

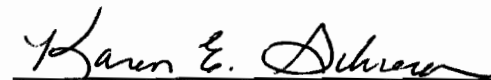
Stevens, 146 F.3d at 546. Plaintiff alleges only one claim, the violation of Title VII of the Civil Rights Act of 1964. The claim is not complex and it appears to the court that plaintiff has the ability to investigate and present his own claim at this stage.

Now, therefore, it is hereby

ORDERED that Plaintiff's motion to appoint counsel (Docket 30) is denied.

Dated August 7, 2008.

BY THE COURT:

A handwritten signature in cursive script, reading "Karen E. Schreier", is written over a horizontal line.

KAREN E. SCHREIER  
CHIEF JUDGE